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October 17, 1996

BY HAND

Mr. William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: PR Docket Nos. CC-94-54; CC-95-116; CC-94-102  
Ex parte Presentation

Dear Mr. Secretary:

The letter reports that on October 16, 1996, on behalf of RAM Mobile Data USA Limited Partnership ("RMD"), Steve Apicella, its Vice President of Regulatory Affairs and the undersigned met with Michele Farquhar, Chief of the Wireless Telecommunications Bureau, Rosalind Allen, Deputy Bureau Chief of the Wireless Telecommunications Bureau, and Sandra Danner, Deputy Chief of the Commercial Wireless Division, to discuss the FCC's definition of "covered SMRs." Two copies of the presentation that was submitted at the time of the meeting accompany this letter.

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Mr. William F. Caton, Acting Secretary  
October 17, 1996  
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Because the meeting occurred at the end of the day yesterday, this submission is being made to the Secretary's Office today.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "H. Goldberg", written over the typed name.

Henry Goldberg

Jonathan L. Wiener

Attorneys for

RAM Mobile Data USA Limited Partnership

Enclosures

cc: Michele Farquhar  
Rosalind Allen  
Sandra Danner  
Steve Apicella

Ex Parte Presentation

**RMD "COVERED SMR" ISSUES**

RMD operates mobile data SMR systems that are excluded from the Commission's definition of "covered SMR" systems. In each of the proceedings in which the Commission will use the "covered SMR" definition, this exclusion is entirely reasonable and should be retained.

A. Generally: Additional Regulation is Not Necessary.

- Mobile data SMR serves a different market, with different requirements and expectations for service that is not a substitute for landline voice, which is where the various requirements are derived.

- The parties who have asked for modifications to the "covered SMR" definition have not suggested that data-only SMR systems should be "covered," but that other types of systems, *e.g.*, small SMR systems or cellular data offerings, should be excluded from coverage. Although other considerations might favor an exemption for small SMR systems or cellular data offerings, the Commission should recognize that these exemptions address different concerns than those driving the basic limitations on the "covered SMR" definition.

- Presumption should be against regulation unless shown to be necessary, not the other way around. There has been no demonstration of a need to include data-only SMRs within the "covered SMR" definition.

B. Individual Proceedings: Voice System Requirements Don't Fit Data-Only Systems.

1. **Number Portability** — Data-only SMR systems use different technologies than cellular, broadband PCS or real-time voice SMR systems. For example, RMD's customers are assigned an identification code unrelated to local exchange telephone numbers. It makes no sense to speak in terms of "number portability" for these customers; they have no number to "port."
2. **E911**.— Users of data-only SMR systems do not expect to use these systems as their primary personal communications technology and it should not be assumed that they will rely on data-only SMR systems to contact public safety agencies in an emergency. Moreover, the features of data SMR systems largely are dependent upon functionalities resident

in client server software. Thus, carriers cannot provide E911 capability if the user's application software is not designed to support that feature.

3. **CMRS Resale** — data-only systems are unlike traditional cellular and PCS systems, which can substitute for wireline local exchange services. Data-only SMR systems generally do not sell raw airtime, but entire customer-specific data communications solutions that are not readily adaptable to a resale requirement. There is no evidence that a resale requirement is needed in this market.
4. **RF Hazards** — RF emissions from data-only SMR systems pose less of a health hazard than cellular, PCS, or other two-way, real-time voice systems because of the short duty-cycle associated with most data transmissions and because the antennas used in conjunction with data-only SMR systems generally are mounted outside of vehicles or are otherwise shielded from the user.

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